MONTANA LEGISLATIVE HISTORY

Chapter 358 19 95

Bill H _____ S 378 Original bill & history ✓ C

H. Committee on Highways & Transportation			S. Committee on Highways & Transportation		
Hearing Date(s)	Mar 15	✓ C	Hearing Date(s)	Feb 14	✓ C
	Mar 20	✓ C			C
		C			C
		C			C
Date Out	Mar 21	✓ C		Feb 18 19	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SB 377 INTRODUCED BY WELDON

IMPLEMENT RECOMMENDATION OF GOVERNOR'S TASK FORCE TO RENEW MONTANA GOVERNMENT BY REQUIRING COUNTIES TO ESTABLISH CERTAIN ADMINISTRATIVE BOARDS, DISTRICTS, AND COMMISSIONS BY RESOLUTION

2/13	INTRODUCED		
2/13	FIRST READING		
2/13	REFERRED TO LOCAL GOVERNMENT		
2/16	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED		
2/17	2ND READING PASSED	50	0
2/18	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO LOCAL GOVERNMENT		
3/21	HEARING		
4/12	TAKEN FROM COMMITTEE AND AND PLACED ON 2ND READING	73	26
4/13	2ND READING CONCURRED	99	0
4/13	3RD READING CONCURRED	97	1
	RETURNED TO SENATE		
4/18	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 543		
	EFFECTIVE DATE: 10/01/96		

SB 378 INTRODUCED BY SWYSGOOD

ELIMINATE STATE REGULATION FOR CERTAIN MOTOR CARRIERS

2/11	INTRODUCED		
2/11	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/11	FIRST READING		
2/13	FISCAL NOTE REQUESTED		
2/14	HEARING		
2/17	FISCAL NOTE RECEIVED		
2/17	FISCAL NOTE PRINTED		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	50	0
2/21	3RD READING PASSED	49	1
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/15	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/24	2ND READING CONCURRED	87	11
3/25	3RD READING CONCURRED	82	13
	RETURNED TO SENATE WITH AMENDMENTS		
3/30	2ND READING AMENDMENTS CONCURRED	50	0
3/31	3RD READING AMENDMENTS CONCURRED	49	0
4/04	SIGNED BY PRESIDENT		
4/05	SIGNED BY SPEAKER		
4/06	TRANSMITTED TO GOVERNOR		
4/11	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 358		
	EFFECTIVE DATE: 07/01/95		

SENATE BILL NO. 378

INTRODUCED BY Swysgood

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING STATE REGULATION FOR CERTAIN MOTOR CARRIERS; TRANSFERRING THE SINGLE-STATE REGISTRATION PERMIT PROGRAM TO THE DEPARTMENT OF TRANSPORTATION; AMENDING SECTIONS 30-14-803, 39-2-304, 69-12-101, 69-12-102, AND 69-12-301, MCA; REPEALING SECTION 69-12-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 5] grants rulemaking authority to the department of transportation. It is the intent of [section 1] to transfer the administration of the single-state registration system for interstate motor carriers from the public service commission to the department of transportation. At a minimum, the rules must address:

(1) the implementation of the single-state registration system currently administered by the public service commission; and

(2) imposition of a fee to defray the costs of administering the single-state registration permit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Cooperative or reciprocal registration -- filing of insurance -- fee.** (1) The department may enter into written agreements with agencies of other states to allow for the cooperative or reciprocal state registration of interstate or international motor carriers and authorize the agency of a participating state to:

(a) issue interstate motor carrier registrations, stamps, and permits;

(b) accept filings of insurance, financial responsibility, and orders;

(c) collect and disburse fees;

(d) share and exchange information for audit, reporting, and enforcement purposes; and

(e) perform any other function that the department determines is justified to facilitate the cooperative or reciprocal registration.

(2)(a) The department may impose a fee set by rule on an interstate or international motor carrier for the administration of this section. The fee must be paid on each motor vehicle operated by the motor carrier on the public highways of this state. At the time of initial registration and each succeeding year, at a time set by the department, the motor carrier shall pay the fee to the department.

(b) The department shall remit the fee to the state treasurer for deposit in the general fund.

NEW SECTION. **Section 2. Identification of ownership of certain large motor vehicles.** (1)(a) A person may not operate a motor vehicle or combination of vehicles, except farm vehicles, having a gross weight of more than 10,000 pounds upon the highways of the state unless there is displayed on both sides of each vehicle operated under its own power, either alone or in combination:

(i) the name or trade name and city and state of the person or corporation under whose jurisdiction the vehicle is being operated; or

(ii) the trade name and department of transportation number of the person or corporation under whose jurisdiction the vehicle is being operated.

(b) The display of name must be in letters in sharp contrast to the background and in size, shape, and color readily legible in daylight from a distance of 50 feet while the vehicle is not in motion. The display must be kept and maintained to remain legible. The display may be accomplished either by painting the information on the vehicle or through the use of a decal or a removable device that is prepared so that it meets the identification and legibility requirements of this section.

(2) This section does not apply to motor vehicles being:

(a) transported to dealers from point of manufacture;

(b) transported from one dealer to another;

(c) demonstrated to a prospective buyer; or

(d) delivered to a buyer from a dealer or a manufacturer.

NEW SECTION. **Section 3. For hire defined.** "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

NEW SECTION. **Section 4. Motor carrier defined.** "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway in this state for the transportation of property for hire on a commercial basis. The term does not include motor carriers regulated under Title 69, chapter 12.

NEW SECTION. **Section 5. Rulemaking authority.** The department of transportation may adopt and enforce rules for the administration of the single state registration system, including the setting of a fee, and for other matters necessary to carry out the provisions of [sections 1 and 2].

Section 6. Section 30-14-803, MCA, is amended to read:

"**30-14-803. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Affiliate" means a person who, other than through a franchise or marketing agreement, controls, is controlled by, or is under common control with any other person.

(2) "Cost of doing business", in the absence of proof of lesser cost, means 1% of the delivered cost of motor fuel for wholesale sales and 6% of the delivered cost of motor fuel for retail sales and in other cases includes all costs incurred in the conduct of business, including but not limited to:

(a) labor, including salaries of executives and officers;

(b) rent that is not less than the fair market value based on current use;

(c) interest on borrowed capital;

(d) depreciation;

(e) selling cost;

(f) maintenance of equipment;

(g) losses due to breakage or damage;

(h) credit card fees or other charges;

(i) credit losses; and

(j) all licenses, taxes, insurance, and advertising.

(3) "Customary discount for cash" means an allowance, whether part of a larger discount or not, made to a wholesaler or retailer when a person pays for motor fuel within a limited or specified time.

(4) "Delivered cost of motor fuel" means:

(a) for a distributor or retailer, the lower of the most recent cost of motor fuel to the distributor or retailer or the lowest replacement cost of motor fuel to the distributor or retailer within 5 days prior to the date of sale, in the quantity last purchased, whether within or before the 5-day period, less all trade discounts except customary discounts for cash plus transportation costs and ~~any~~ taxes that may be required by law if not already included in the invoice cost; or

(b) for a refiner, that refiner's posted rack price to the wholesale class of trade at the terminal used by the refiner to obtain the motor fuel, plus transportation costs and ~~any~~ taxes that may be required by law. If the refiner does not regularly sell to the wholesale class of trade at the terminal or does not post a terminal price, the refiner may use as its rack price the posted price of any other refiner at a terminal within the general trade area that has products readily available for sale to the wholesale class of trade.

(5) "Distributor" means a person engaged in the purchase of motor fuel for resale to a retail motor fuel outlet.

(6) "Motor fuel" means gasoline, as defined in 15-70-201, alcohol blended with gasoline to produce gasohol, and special fuel as defined in 15-70-301.

(7) "Person" means an individual, a sole proprietorship, a partnership, a corporation, any other form of business entity, or ~~any~~ an individual acting on behalf of any of them.

(8) "Posted rack price" means the f.o.b. terminal price for a particular motor fuel that a refiner, producer, or person offers for sale or transfer to itself or ~~any~~ a related or unrelated person.

(9) "Refiner" means a person engaged in the production or refining of motor fuel, whether the production or refining occurs in this state or elsewhere, and includes ~~any~~ an affiliate of the person.

(10) "Retailer" means a person engaged in the business of selling motor fuel at a retail motor fuel outlet.

(11) "Retail motor fuel outlet" means a place of business where motor fuel is sold and delivered into the tanks of motor vehicles regardless of whether the income from the selling and delivery of the fuel is the primary source of revenue of that business.

(12) "Sale" means a transfer, gift, sale, offer for sale, or advertisement for sale in any manner or by any means of motor fuel, including a transfer of motor fuel by a person to ~~himself~~ that person or to ~~his~~ an affiliate.

(13) "Transfer price" means the price used by a person to transfer motor fuel to ~~himself~~ that person or to an affiliate for resale at a retail motor fuel outlet.

(14) "Transportation cost" means the actual cost of transportation of motor fuel ~~or, in the absence of proof of actual cost, the common carrier rates fixed by the public service commission for the immediate market area concerned~~.

(15) "Wholesaler" means a person engaged in the business of making sales at wholesale to a retail motor fuel outlet."

Section 7. Section 39-2-304, MCA, is amended to read:

"**39-2-304. Lie detector tests prohibited -- regulation of blood and urine testing.** (1) A person, firm, corporation, or other business entity or its representative ~~thereof~~ may not require:

(a) as a condition for employment or continuation of employment, ~~any~~ a person to take a polygraph test or any form of a mechanical lie detector test;

(b) as a condition for employment, ~~any~~ a person to submit to a blood or urine test, except for employment in:

(i) hazardous work environments;

(ii) jobs the primary responsibility of which is security, public safety, or fiduciary responsibility; or

(iii) jobs involving the intrastate commercial transportation of persons or commodities by a commercial motor carrier or an employee subject to driver qualification requirements; and

(c) as a condition for continuation of employment, ~~any~~ an employee to submit to a blood or urine test unless the employer has reason to believe that the employee's faculties are impaired on the job as a result of alcohol consumption or illegal drug use, except that drug testing may be conducted at an employee's regular biennial physical for employment in jobs involving the intrastate commercial motor carrier transportation of persons or commodities.

(2) Prior to the administration of a drug or alcohol test, the person, firm, corporation, or other business entity or its representative shall adopt the written testing procedure that is provided in 49 CFR, part 40, and make it available to all persons subject to testing.

(3) The person, firm, corporation, or other business entity or its representative shall provide a copy of drug or alcohol test results to the person tested and provide ~~him~~ the person the opportunity, at the expense of the person requiring the test, to obtain a confirmatory test of the blood or urine by an independent laboratory selected by the person tested. The person tested must be given the opportunity to rebut or explain the results of either test or both tests.

(4) Adverse action may not be taken against a person tested under subsections (1)(b), (1)(c), (2), and (3) if the person tested presents a reasonable explanation or medical opinion indicating that the results of the test were not caused by alcohol consumption or illegal drug use.

(5) A person who violates this section is guilty of a misdemeanor.

(6) As used in this section:

(a) "commercial motor carrier" has the meaning provided in 69-12-101 and in [section 4]; and

(b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this state."

Section 8. Section 69-12-101, MCA, is amended to read:

"**69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company, association, or joint-stock association.

(5) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(6) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, licensed disposal well, or licensed land farm. As used in this subsection, "land farm" means a part of a facility at which petroleum-contaminated material is applied onto or incorporated into the soil surface.

(7) "Household goods" means any of the following:

(a) personal effects and property used or to be used in a dwelling when they are a part of the equipment or supply of the dwelling. The term does not include property moving from a factory or store

unless the property is purchased by a householder for use in a dwelling and is transported at the request of the householder.

(b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments when those items are a part of the stock, equipment, or supply of the stores, offices, museums, institutions, hospitals, or other establishments. The term does not include the stock-in-trade of an establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment or a portion of the establishment from one location to another.

(c) articles, including objects of art, displays, and exhibitions that because of their unusual nature or value, require the specialized handling and equipment usually employed in moving household goods and other similar articles.

~~(6)~~(8) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by ~~any~~ a court, operating motor vehicles upon ~~any~~ a public highway in this state for the transportation of ~~persons or property~~ passengers, household goods, or garbage for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. ~~The term includes any motor carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.~~

~~(7)~~(9) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

~~(8)~~(10) "Person" means an individual, firm, or partnership.

~~(9)~~(11) "Public highway" means a public street, road, highway, or way in this state.

~~(10)~~(12) "Railroad" means the movement of cars on rails, regardless of the motive power used.

~~(11)~~(13) "Recyclable" means any material diverted from the solid waste stream that can be reused in the production of heat or energy or as raw material for new products and for which markets exist."

Section 9. Section 69-12-102, MCA, is amended to read:

"**69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

(a) ~~motor vehicles used in carrying property consisting of agricultural commodities (not including manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other property or passengers for compensation;~~

~~(b)~~ the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;

~~(c)~~(b) the transportation by means of motor vehicles in the regular course of business of employees~~, supplies, and materials~~ by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees~~, supplies, and materials~~ in construction and production is concerned;

~~(d)~~(c) the transportation of ~~property~~ household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas ~~thereof~~ of a city, town, or village, as determined by the commission;

~~(e)~~(d) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

~~(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;~~

~~(g)~~(e) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

~~(h)~~(f) ambulances;

~~(i) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill;~~

~~(j)~~(g) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also going to or from the driver's place of employment;

~~(k) the transportation of property by motor carrier as part of a continuous movement if that property, prior or subsequent to part of a continuous movement, has been or will be transported by an air carrier;~~

~~(l)~~(h) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

~~(m)~~(i) armored motor vehicles used ~~exclusively~~ for the transportation of ~~coins, currency, silver bullion, gold bullion, and other precious metals, precious stones,~~ valuable paintings, and other items of unusual value requiring special handling and security;

~~(n)~~(j) the transportation of ~~a commodity~~ household goods or garbage under an agreement between a motor carrier and an office or agency of the United States government; or

~~(o)~~(k) the transportation of ~~handicapped~~ disabled or elderly persons provided by private, nonprofit organizations. As used in this subsection:

(i) ~~"handicapped"~~ "disabled" means an individual who has a physical or mental impairment that substantially limits one or more major life activities;

(ii) "elderly" means a person 60 years of age or older; and

(iii) "private, nonprofit organization" means an organization recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 10. Section 69-12-301, MCA, is amended to read:

"**69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into four classes to be known as:

(a) Class A motor carriers;

(b) Class B motor carriers;

(c) Class C motor carriers; and

(d) Class D motor carriers.

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers include all motor carriers ~~operating motor vehicles for distributing,~~

~~delivering, or collecting wares, merchandise, or commodities or transporting persons,~~ where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting ~~(including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, organic and inorganic matter, and recyclables~~ garbage."

NEW SECTION. **Section 11. Codification instruction.** (1) [Sections 1, 2, and 5] are intended to be codified as an integral part of Title 61, chapter 3, part 7, and the provisions of Title 61, chapter 3, part 7, apply to [sections 1, 2, and 5].

(2) [Section 3] is intended to be codified as an integral part of Title 61, chapter 1, part 5, and the provisions of Title 61, chapter 1, part 5, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 61, chapter 1, part 3, and the provisions of Title 61, chapter 1, part 3, apply to [section 4].

NEW SECTION. **Section 12. Repealer.** Section 69-12-103, MCA, is repealed.

NEW SECTION. **Section 13. Effective date.** [This act] is effective July 1, 1995.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0378, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act eliminating state regulation for certain motor carriers; transferring the single-state registration permit program to the Department of Transportation.

ASSUMPTIONS:
1. The fiscal impact shown below is relative to the Executive Budget. However, actions have already been taken by the joint subcommittee on natural resources to reduce the budget for the Public Service Commission (PSC) by 6.00 FTE plus $16,302 per year in travel expenditures. The actions taken by the joint subcommittee were predicated on the federal preemption on state regulation of the motor carrier industry, consistent with the intent of SB378. Therefore, the fiscal impact shown below for the PSC is already partially reflected in the PSC budget as approved by the joint subcommittee.
2. The public service commission tax rate is established by the Department of Revenue based on the appropriations for the PSC. A reduction in the PSC budget would cause the tax rate to be reduced accordingly, effective October 1, 1995.
3. Report and authority application fees of about $18,800 per year are deposited to the general fund. About 300 carriers would be preempted from PSC regulation; current report fees are $25 per carrier. Authority application fees are based on FY94 actual motor carrier requests.
4. The Department of Transportation would assume responsibility for the single-state registration permit program. The department's Montana Tax and Revenue System (MOTRS), which is currently under development, will contain a subsystem capable of handling the single-state registration permit program. Development and operation of MOTRS is currently funded in the budget.
5. The DOT Motor Carrier Services Division would require 1.00 FTE (grade 9) to process single-state registration permit applications.

FISCAL IMPACT:

Public Service Commission:

Expenditures:	FY96 Difference	FY97 Difference
FTE *	(6.00)	(6.00)
Personal Services *	(189,591)	(190,286)
Operating Expenses **	(42,793)	(42,793)
Equipment	(15,500)	(16,100)
Total	(247,884)	(249,179)
Funding:		
Public Service Comm. Account (02)	(247,884)	(249,179)
Motor Carrier Services:		
FTE	1.00	1.00
Personal Services	21,674	21,747
Funding:		
Highway Special Revenues (02)	21,674	21,747

* Actions already taken by joint subcommittee on natural resources.
** Subcommittee has reduced operating expenses by $16,302 per fiscal year.

(continued)

Dave Lewis 2-17-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chuck Swysgood 2-17-95
CHUCK SWYSGOOD, PRIMARY SPONSOR DATE

Net Impact on fund balances:

	FY96 Difference	FY97 Difference
General Fund (Cost) (01)	(18,800)	(18,800)
Highway Special Revenue (02)	(21,674)	(21,747)
PSC Account (02)	0	0

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN LARRY TVEIT**, on February 14, 1995, at 12:37 p.m. in Room 410.

ROLL CALL

Members Present:

Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 294
SB 361
SB 378

Executive Action: SJR 9
SB 205
SB 245

EXECUTIVE ACTION ON SJR 9

Motion:

SENATOR LINDA NELSON MOVED TO AMEND SJR 9 WITH AMENDMENT NUMBER SJR00901.ACE.

funding would be jeopardized due to noncompliance with the commercial drivers licensing law. She reported the Department stood as a firm proponent of SB 294.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR STANG asked if the fertilizer spreaders on truck chassis were ever removed, to facilitate other uses for the truck, and would need licensed in compliance with other Statutes. **Mr. Galt** said he did not believe the spreaders were removed for other utilization. He stated that if they were removed, Statute would apply to a large truck.

Closing by Sponsor:

SENATOR MOHL termed the Bill as needed clarification and thought the fiscal impact was likely greater without the clarification than the amount indicated on the fiscal note.

CHAIRMAN TVEIT ANNOUNCED THE HEARING ON SB 294 AS CLOSED.

HEARING ON SB 378

Opening Statement by Sponsor:

SENATOR CHUCK SWYSGOOD, SD 17, Dillon, stated SB 378 was an act eliminating state regulation of certain motor carriers and transferring certain programs from the Public Service Commission (PSC) to the Montana Department of Transportation (MDT). He said his original intent had been to deregulate everything which related to motor carriers, passenger carriers, etc., which the PSC controlled. He stated that in January of 1995 the federal government had preempted intrastate property carriers from regulation, just as interstate carriers who had already been deregulated. He said the federal decision had resulted in Montana and a number of states filing a court suit, based upon state's rights provisions. He said the hearing was held and the decision rendered to uphold Congress' right to deregulate intrastate transportation of property. He said the federal law did not deregulate household goods carriers, passengers and buses, or garbage and waste carriers. He said the original draft of SB 378 had included deregulation of those specific carriers as well. He reported the Court decision had resulted in pressure to

eliminate those groups from deregulation. He explained that the current draft of the Bill strictly dealt with the deregulation of carriers of property. He said the Bill did not deregulate garbage haulers, household goods carriers, passengers and buses who would still be regulated. He attested that SB 378 stated that the PSC would no longer have any control or authority over property carriers in the State of Montana.

SENATOR SWYSGOOD said one portion of the Bill transferred the Single State Registration Program to the Montana Department of Transportation (MDT). He said an amendment would be needed to repeal 69-12-405, which pertained to livestock haulers, who are currently deregulated through their own separate Statute.

Proponents' Testimony:

Jerome Anderson, representing the Montana Transfer and Warehousemen's Association, Household Goods Carriers, and the Montana Passenger Carriers Association, said they supported SB 378 and thanked **SENATOR SWYSGOOD** for his consideration for their concerns and his cooperation with them throughout his drafting of the Bill. **Mr. Anderson** affirmed the sponsor's statement that the Bill was the result of Congressional action which occurred late in 1994 when United Parcel Services (UPS) and Federal Express became concerned about intrastate regulation of their land-based transportation operations from airport to delivery point. He reported that the Airport Authorization Act had been amended to deregulate all intrastate transportation from the federal level. He explained that Congress later recognized the unique characteristics of household goods carriers, passenger carriers, and solid waste and garbage carriers and had exempted them from the legislation. He agreed that the Motor Carrier Act should be repealed, with regard to the transportation of property, but stated that the groups he represented desired to continue being regulated.

Mr. Anderson stated that SB 378 allowed their segment of the Industry to continue being regulated and gave carriers some protection, but also continued their obligations to serve the public on a continuing basis. There would still be control over rates and charges, requirements for maintaining insurance at specified levels, for the safety of the traveling public, and carrier obligation to maintain facilities and equipment adequate to meet all of the service requests. He noted the presence of PSC Members, attested to their support of the Bill, and stated those Members were present to answer any questions. **Mr. Anderson** urged the Committee's favorable consideration of the Bill. He reported that representatives from the Associations he represented were present, if needed for questions, but in the interest of time they would not individually testify as proponents.

Ben Havdahl, representing the Montana Motor Carriers Association (MMCA) said he had prepared a written statement, which he would pass to Committee Members, instead of reading it in its entirety **(EXHIBIT # 9)**. He highlighted MMCA's position on the Bill by relating to the progression of the drafting of SB 378. He said the MMCA Board of Directors had met in January, regarding the original intent of the Bill for complete deregulation, to establish a new policy relating to economic regulation of intrastate motor carriers. He stated that for years the MMCA had supported continued regulation and a new policy had been adopted to no longer support intrastate motor carrier regulation. He said the policy adopted had not been aimed at seeking deregulation of regulated intrastate motor carrier operations which were not affected by the federal law. He said SB 378 represented downsizing of the scope of economic regulation under PSC and provided for the continued regulation of those carriers not affected by federal law. He reported the transfer of functions, contained in the Bill, were also consistent with the second policy statement adopted at MMCA's Board of Directors meeting. He stated SB 378 was currently consistent with the position adopted by their Board and they supported the measure.

Jim Lighter, President of the Montana Solid Waste Contractors Association, said their Association represented about 22 local-waste contractors in Montana, who employed several hundred collection workers, and landfill operators. He stated they would like to urge the Committee's support of the Bill and thanked **SENATOR SWYSGOOD** for working with their membership to make the appropriate amendments **(EXHIBIT # 9A)**.

Dave Galt, Administrator, Motor Carriers Services Division for the Montana Department of Transportation, stated the single state registration system had a number of striking similarities with the International Registration Plan which his Division administers and offered to answer any question they may have.

Opponents' Testimony:

Copies of a letter of opposition to SB 378 were provided to Committee Members. The letter was from **Roger Bessler, Soil Remediation Services, Inc. (EXHIBIT # 10)**.

Questions From Committee Members and Responses:

SENATOR JABS asked what the term property carriers specified and asked what they carried? **SENATOR SWYSGOOD** said property carriers would be considered every other type of carrier than those named as exempt. He said they were usually the commercial trucking portion of the Industry.

SENATOR STANG asked if SB 378 would address those who provided transportation for the school lunch program? **SENATOR SWYSGOOD** stated yes, as those carriers were no longer regulated.

SENATOR COLE referred to page 8, line 12, and asked why "tow trucks" had been struck; were they also deregulated? **SENATOR SWYSGOOD** stated yes, that was correct.

SENATOR JERGESON asked if school buses would still be illegal for transportation, other than for students? **SENATOR SWYSGOOD** said that would still be how the law read.

Closing by Sponsor:

SENATOR SWYSGOOD said the concern **SENATOR JERGESON** raised was still a part of being regulated and thought that was why most garbage haulers were concerned about deregulation. Competition would be allowed and these carriers had a considerable amount of money invested. He commented that carriers who wished to remain regulated had received an opportunity, through this Hearing, to make their wishes known and stated that was more of a chance than other carriers had been granted. He reminded them the day was fast approaching when they would not have that opportunity. He reported this as the second time he had experienced a reduction in their investment, regarding authorities they had lost. He said that the federal government had left it to the states to decide how deregulation was going to be handled and attested SB 378 was the answer. He said the Bill completely removed the property carriers out from under the jurisdiction of the PSC, and the balance of the requirements were transferred to MDT.

CHAIRMAN TVEIT ANNOUNCED THE HEARING ON SB 378 AS CLOSED.

EXECUTIVE ACTION ON SB 361

Motion:

SENATOR STANG MOVED SB 361 DO PASS.

Discussion:

SENATOR MOHL asked for clarification of who would be doing safety checks on vehicles which would not be crossing weigh scales? **Mr. Galt** said the Highway Traffic Safety Division felt the laws of vehicle safety inspections, those done by the Motor Carriers Services Safety and Assistance Program housed in the Montana Highway Patrol, were not applicable to vehicles which did not cross weigh scales, as they weren't required to take any type of vehicle safety test. He said those vehicles which may somehow

EXECUTIVE ACTION ON SB 378

Motion:

SENATOR SWYSGOOD MOVED TO AMEND SB 378 WITH AMENDMENT NUMBER SB037801.ACE (EXHIBIT # 11).

Discussion:

SENATOR STANG asked why livestock carriers weren't currently regulated? **SENATOR SWYSGOOD** said that of all the people the PSC had tried to regulate, livestock carriers was the group they had the least success with, primarily because of the agriculture exemption from other laws. He said this was a separate section of the law, not under the Motor Carrier Act, and it had inadvertently been overlooked.

THE QUESTION WAS CALLED FOR.

Vote:

SENATOR SWYSGOOD'S MOTION TO AMEND SB 378 WITH AMENDMENT NUMBER SB037801.ACE, (EXHIBIT # 11) CARRIED UNANIMOUSLY.

Motion:

SENATOR SWYSGOOD MOVE SB 378 DO PASS AS AMENDED.

Discussion:

SENATOR STANG asked if there was a fiscal note and if the tow truckers, who had their own Bill forthcoming, objected to SB 378? **Jerome Anderson** said the tow truck bill was not affected one way or another by SB 378.

SENATOR STANG asked if the tow truck people knew they were being deregulated in this Bill? **Connie Erickson** explained that "tow trucks" were struck in Section 9 of this Bill. She stated the same language had been struck in the tow truck bill.

SENATOR STANG asked if there was a fiscal note? **SENATOR SWYSGOOD** stated there was a fiscal note being prepared. He said the PSC had already made corresponding reductions in their budget during the budget process.

{Tape: 2; Side: A.}

Jerome Anderson stated that the fiscal effect on the PSC had been a reduction in force which had been taken care of in the budget process. He said the PSC had assured everyone they could handle whatever regulatory control was left with the reduction in force.

SENATOR SWYSGOOD said he didn't believe there was any General Fund money involved, because the PSC was paid by rate matrix. There should be a reduction because of the elimination of the FTE's. **SENATOR SWYSGOOD** stated the Bill could be held from Floor Action until the fiscal note caught up with the Bill.

THE QUESTION WAS CALLED FOR.

Vote:

SENATOR SWYSGOOD'S MOTION THAT SB 378 DO PASS AS AMENDED CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: The meeting was adjourned at 2:27 p.m.

Sen. Tveit
SENATOR LARRY TVEIT, Chairman

Carla Turk
CARLA TURK, Secretary

LJT/cmt

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL DATE 2/14/95

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	X		
RIC HOLDEN	X		
REINY JABS	X		
GREG JERGESON	X		
ARNIE MOHL	X		
LINDA NELSON	X		
BARRY "SPOOK" STANG	X		
CHUCK SWYSGOOD, VICE CHAIRMAN	X		
LARRY TVEIT, CHAIRMAN	X		

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

February 18, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 378 (first reading copy -- white), respectfully report that SB 378 be amended as follows and as so amended do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

That such amendments read:

1. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "69-12-103"
Insert: "AND 69-12-405"

2. Page 10, line 16.
Strike: "Section"
Insert: "Sections"
Following: "69-12-103"
Insert: "and 69-12-405"
Strike: "is"
Insert: "are"

-END-

Amd. Coord.
Sec. of Senate

SENATE HIGHWAYS
EXHIBIT NO. 9
DATE 2/14/95
BILL NO. SB378

February 14, 1995
Statement on SB 378 to the
Senate Highways and Transportation Committee
Montana Motor Carriers Association

Mr. Chairman and Members of the committee. For your record, I am Ben Havdahl, representing the Montana Motor Carriers Association. MMCA would like to go on record in support of SB 378.

MMCA has some 450 motor carrier members. Many of those members are, or have been operating as regulated intrastate motor carriers under a certificate of public convenience and necessity granted by the Montana Public Service Commission.

The regulated systems provides for motor carriers to operate as a quasi public utility defined under authority by law. The certificate granted by PSC contained a basic requirement for motor carriers to serve, upon demand and without prejudice, all shippers of the commodities, within the scope of their authority.

In exchange for this requirement, the PSC would approve the rates to be charged and restrict the number of carriers who would in turn serve those shippers. The test for issuance of new authorities to carriers wanting to transport regulated commodities was centered around public need and convenience.

The law, adopted more than 60 years ago was effective July 1, 1931 and has served well in establishing and sustaining a motor carrier transportation system in Montana. MMCA was founded in 1939 and has maintained a standing policy supporting the continuation of a regulated intrastate motor carrier system.

Now with the action by the Congress, effective January 1 of this year, as you have heard from prior testimony, the regulated system of motor carrier transportation has been changed dramatically.
Only three classes of commodities remain regulated, household goods, passengers and garbage, because carriers deal directly with consumers.

With that change, has come the change of a long standing policy position by MMCA for continued support of intrastate motor carrier regulation under PSC. The new policy was adopted on January 5 of this year following the action by Congress and the dismissal of the lawsuit in the federal court.

The policy was not aimed at seeking the deregulation of regulated intrastate motor carrier operations that were not affected by the federal law including the three mentioned, household goods carriers, passengers, and garbage.

SB378 is not a deregulation bill per se. It represents a "downsizing" of the scope of economic regulation under the PSC, providing for the continued regulation of those carriers not affected by the federal law.

That law allows for the continued involvement by PSC in limited areas of regulation including safety, financial responsibility of carriers including the filing of proof of insurance by heretofore regulated carriers.

The 1985 Legislature transferred the lead agency authority in PSC for the enforcement of motor carrier safety to the Department of Justice. The requirement for insurance filing in PSC, remains there for the intrastate carriers that will remain regulated whether or not SB378 passes.

MMCA Board voted to support transferring the "Single State Registration Program", now authorized for interstate carriers under still a different federal law which replaced the so called "bingo stamp" registration system.

The base state issues one receipt to each carrier, copies of which are kept in the cabs as proof of registration of insurance when operating in other states. SB 378 transfers the administration of the SSRS program from PSC to the Motor Carrier Division of the MT DOT.

The bill specifically provides that the MT DOT may enter into written agreements with other states to allow for the reciprocal state registration of interstate or international motor carriers which heretofore were entered into by PSC.

It also requires MT DOT to enforce the identification of ownership of certain motor vehicles no longer under the jurisdiction of PSC and grants rule making authority to the department.

SB378 is consistent with the policy changes made by MMCA and we want to support its passage. We would urge this committee to vote a do pass on the bill. Thank you.

SENATE HIGHWAYS
EXHIBIT NO. 9A
DATE 2/14/95
BILL NO. SB 378

NAME Jim Leiter

ADDRESS 6767 Linda Vista Blvd. Missoula, MT 5980[illegible]

HOME PHONE 251-5937 WORK PHONE 728-9572

REPRESENTING Montana Solid Waste Contractors Assn

APPEARING ON WHICH PROPOSAL? SB 378

DO YOU: SUPPORT X OPPOSE _____ AMEND _____

COMMENTS:

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

WITNESS.F11

SENATE HIGHWAYS
EXHIBIT NO. 10
DATE 2/14/95
BILL NO. SB 378

SRS Soil Remediation Services Inc.

P O BOX 2903 GREAT FALLS, MONTANA 59403 PHONE 406-761-3512- FAX 761-4503-TOLL FREE 1-800-924-3512

Senate Highway & Transportation Committee FEB 14, 1995

Dear Senator Larry Tveit,

I have just become aware of a bill that will be heard before the Senate Highway and transportation committee.

The amount of bills that pass through any given legislative session makes it difficult to stay abreast of situations that may affect my company. My short notice on Senate Bill 378, prevents me from making it to the hearing on 2/14 at 1:00 pm in Helena to register my objection to areas of the language in SB 378.

In particular the references to landfarms and the hauling of materials such as petroleum contaminated soils and media. The PSC regulation of these media will put an additional expense on the generator and the state. . This regulation will also prevent the cleanup operator from hauling the contaminated media to a licensed land farm and require him to look for a trucker with PSC authority. In remote areas or smaller towns the excavator will have to surrender that portion of his income. This will be counter productive to small business by adding unnecessary expenses and paper work through regulation and counterproductive to the environment by holding up some remediation projects.

There are also areas in this language that would assume the petroleum contaminated soil to be a waste product destined for disposal. I can assure you as one of Montana's first licensed landfarm facilities this is not necessarily the case.

For further information or clarifications please do not hesitate to call. My # 1-800-924-3512

Sincerely

Roger Bessler Soil Remediation Services Inc.

SENATE HIGHWAYS
EXHIBIT NO. 11
DATE 2/14/95
BILL NO. SB 378

Amendments to Senate Bill No. 378
First Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 14, 1995

1. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "69-12-103"
Insert: "AND 69-12-405"

2. Page 10, line 16.
Strike: "Section"
Insert: "Sections"
Following: "69-12-103"
Insert: "and 69-12-405"
Strike: "is"
Insert: "are"

{*Internal References to 69-12-405: None.*}

DATE 2-14-94

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: SB 294 SB 361 SB 378

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Dave Dath	MDT	SB 378 SB 294 SB 361	✓	
[illegible]		HB 360	✓	✓
Bud Schoen	Motor Vehicle Div.	SB 294	-	
Ben Havdahl	MT Motor Carriers Assn	SB378	✓	
DAL Smilie	Am Motorcyclist Assn	SB361	✓	
F. MONTGOMERY	SELF	SB361		✓
Harold Hanson	self	SB 361		✓
BARBARA BRENNER	SELF	SB361		✓
Craig Reap	MHP	SB361		
Nancy K. Jovin	DUI Task Force Ravalli	SB 361		✓
Brenda Nordlund	Dept Justice	SB294	✓	
Dave Ashley	DofA	SB 361	✓	
BILL WARE	Chief Vol. Police & MAGP	SB 361		✓
JILL McGUIRE	ABATE OF MT	SB361	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 2-14-94

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: SB 294 SB 361

SB 378

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Joyce McCafferee	PSC	378	✓	
Pat Davidson	MDT	361	✓	
Pam Langley	MABA	294	✓	
Vester Wilson	BRD	378		
Marc W. Johnson	Flathead D.S.P. Inc.	378	✓	
Scott Johnson	Mission Valley Disp	378	✓	
Marvin E Mintyala	Mister M Disposal	378	✓	
Dee Mortensen	Dillon Disposal	378	✓	
Tim Baldwin	NW Disposal	378	✓	
Tony Sparrow	City County Sanitation Helena	378	✓	
Dick Weingartner	MT Solid Waste Cont	378	✓	
Jim Jester	MT. Solid Waste Contractors	378	✓	
Henry A Hoyt	Great Falls Garbage	378	✓	
Donna Stenerson	City-County San.	378	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 2-14-94

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: SB 294 SB 361

SB 378

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Doug Sparrow	City County Dan	378	✓	
Alan Stacey	Stacey T/S	378	✓	
JEROME ANDERSON	MT. PIPEFITTERS CARRIERS MT. TRANSFER + WAREHOUSE A-S	378	✓	
Dale A Duff	Whitefish Ricky MW Transp	378	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on March 15, 1995, at 3:08 p.m.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Rick Jore, Vice Chairman (Majority) (R)
Rep. Patrick G. Galvin, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Matt Brainard (R)
Rep. Robert C. Clark (R)
Rep. Charles R. Devaney (R)
Rep. Marian W. Hanson (R)
Rep. Rod Marshall (R)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Jeanette S. McKee (R)
Rep. William M. "Bill" Ryan (D)
Rep. Dore Schwinden (D)
Rep. Roger Somerville (R)
Rep. Joe Tropila (D)
Rep. Jack Wells (R)

Members Excused:

Rep. Don Larson (D)

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Kim Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 282, SB 321, SB 378
Executive Action: None

{Tape: 1; Side: A; Approx. Counter: 002; Comments: None.}

about $50,000 plus $28,000 for a total budget of $78,000. He said enforcement helps the industry. When looking at other states the amount of compliance is directly related to the amount of enforcement. **REP. BRAINARD** asked **Mr. Hoovestol** for an opinion on the amendment proposed by the Montana Contractors. He replied that he did not like the amendment. He said even though the number is based on the number of registered snowmobiles they would hate to see that become part of the statute.

One reason is that once the amount of gas used by non-resident snowmobilers that come into the state would not know how much gas they bring with them or how much they buy in town, how much was paid by rental operators. The funding should not be based strictly on Montana registered snowmobiles since there are other factors to consider.

{Tape: 2; Side: A; Approx. Counter: 256; Comments: n/a.}

Closing by Sponsor:

SEN. SWYSGOOD closed on the bill. He pointed out that during the special session this off-road use of highway funds was the only account where funding was cut. However, there is income generating from the snowmobiles that are not indicated from the percentage increase. The extra money is going into the department to fund whatever they see fit. The federal funds are already matched. He said the important thing to note is what this recreation brings into the state of Montana. Snowmobilers do purchase gasoline which is taxed. The tax goes to constructing highways, which is not used by off-road vehicles. That is why the funds are set up and this particular user continues to enhance it to promote that recreational activity for Montana and those from out of state who also engage in snowmobiling. He said this money is paid for by users, it is appropriate to put in the categories that are already in the statute.

HEARING ON SB 378

Opening Statement by Sponsor:

SEN. CHARLES SWYSGOOD, SD 17, presented SB 378. He explained the bill would eliminate state regulations for certain motor carriers and transfer the permit program to the Department of Transportation. He pointed out the concern by people over regulations. The reason for the bill is that the federal government deregulated motor carriers, however in that process, the state entered into a lawsuit against the federal government along with Oklahoma. The decision was to uphold the federal government's right to preempt state laws. This affected interstate motor carriers January 1, 1995.

SB 378 will take Montana motor carriers' property out of the Public Service Commission. However, it leaves regulated the household goods carriers, garbage carriers and carriers of passengers. He described the other transfers that would go into effect with the passage of the bill. He pointed out the amendment to address the "land farms." He said that waste tires and waste water should not be included and that was also addressed in the amendment. The reason the federal government left particular items regulated was because they were carriers of property that come in daily contact with the public.

Proponents' Testimony:

Jerome Anderson, Montana Passenger Carriers and the Bus, Taxi and Warehouse Carriers Association, testified in favor of the bill. **EXHIBIT 12** He described the history of the carriers, the reason they became regulated such as catastrophic accidents, inadequate service and discriminatory rates. He pointed out the results of deregulation in the 1980s in the loss of Greyhound and Intermountain bus lines, the loss of the Amtrak southern route and some portions of the northern route. A viable passenger carrier group in Montana is an absolute necessity for the state to participate in the tourist industry and other growing industries.

He discussed an Oregon study regarding the effects of deregulation at the federal level, such as safety problems, reduced maintenance and increased aging of equipment, business failures and substantial reductions in service especially to small rural communities. He said the bill would continue to leave that segment of the industry regulated so that service can be maintained, rates and charges will be controlled, insurance will be maintained at specified levels and maintenance of facilities and equipment will continue to meet adequate service requirements and safety needs.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: n/a.}

Ben Havdahl, representing the Montana Motor Carriers Association, testified in support of SB 378 and the amendment that was presented. He described the 450 carrier members and their operation as a quasi-public utility. The Public Service Commission approved rates and restricted the number of carriers. New carriers had to fill a public need and convenience. January 1 brought a dramatic, Congressional change in the system. He explained that SB 378 is not a deregulation bill as indicated by the sponsor. Rather it is a downsizing of the scope of economic regulation under the PSC which provides for the continued regulation of those carriers not affected by the federal law. He said that SB 378 was consistent with the policy changes of the MMCA and urged the committee to support the bill.

Mark Foos, co-chairman of the Montana Passenger Carrier Association, urged the committee to pass the bill.

Jim Leiter, Landfill Manager of Browning-Ferris Industries of Montana and President of the Montana Solid Waste Contractors' Association, spoke in support of the bill. **EXHIBIT 14** He said their association supports two sections of the amendment, the part that affects land farms and the part that affects waste water. He said they do have an objection to the tire portion of the bill for several reasons. He said the determination of garbage and solid wastes exist in state law and the removal of waste tires from the definition for transportation purposes and creates a big difference in the solid waste management act which Montana allows. The act calls waste tires waste, until they are actually recycled. He explained the amendment would encourage illegal disposal of certain waste tires. He urged the committee to pass the bill without the waste tire exclusionary language.

Dave Galt, Administrator of the Motor Carrier Services, Department of Transportation, spoke in favor of the bill. He said they stand ready to accept the responsibilities of the bill.

Dale Duff, President of Rocky Mountain Transportation, Whitefish, testified for the bill.

Pat Flarity, Merganthalers Transport and Storage Company of Helena, spoke in support of the bill.

George Hall, owner of G & L Transit of Helena and representing his brother with **Hall Transit of Great Falls,** spoke for the bill. He said they were all charter bus service companies and support the bill.

Tom Northy from Montana Transfer Company in Missoula, recommended passage of the bill.

Allen McCann, Big Sky Transfer in Great Falls, a household goods carrier, supported the bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. CHARLES DEVANEY asked **Mr. Havdahl** if the federal deregulation of the interstate transport took away all regulations, such as tariffs. **Mr. Havdahl** replied that it did. However, the federal law did allow the continuation by public service commissions of financial responsibility requirements, the filing of insurance and the enforcement of safety regulations. Legislation passed ten years ago moved the safety responsibilities to the Department of Justice. This bill will change that.

REP. DORE SCHWINDEN asked **SEN. SWYSGOOD** about the tire amendment. He replied that he was receptive to changing the amendment. He pointed out the perspectives of the small haulers vs. the large

haulers. If someone wanted to haul to a recycling place then they did not have to get authority to do it.

REP. BRAINARD asked **SEN. SWYSGOOD** about the financial impact. He explained the values of intra-state authority.

{Tape: 2; Side: B; Approx. Counter: 455; Comments: n/a.}

Closing by Sponsor: **SENATOR SWYSGOOD** closed on the bill.

HOUSE OF REPRESENTATIVES

Highways

ROLL CALL DATE March 15, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Shiell Anderson, Chairman	✓		
Rep. Rick Jore, Vice Chairman, Majority	✓		
Rep. Pat Galvin, Vice Chairman, Minority	✓		
Rep. Joe Barnett	✓		
Rep. Matt Brainard	✓		
Rep. Bob Clark	✓		
Rep. Charles Devaney	✓		
Rep. Marian Hanson	✓		
Rep. Don Larson			✓
Rep. Rod Marshall	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee			
Rep. Jeanette McKee	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	✓		
Rep. Roger Somerville	✓		
Rep. Joe Tropila	✓		
Rep. Jack Wells	✓		

EXHIBIT 12
DATE 3/15/95
SB 375

— Me

— Mt. Passenger Carrier Ass - Bus + Taxi
Mt. Transp + Haulers Assn - Household goods carriers
Oppose in part

— Thank Surgeon

— Brief history of regulation + reason for it -
1887 — Congress passed Act to Regulate Commerce which brought R.R. under Federal control.

- Done because Congress realized that economic regulation of commerce was required if the national transportation system was to serve the needs of the general public.
- Bad found - discrimination rates
Catastrophic accidents
Predatory practices
Railroad company failures because of destructive financial conditions
1913 — For same reasons District of Columbia enacted the first law governing motor carrier operations
- Penn. N. York, Colorado and Wisconsin quickly followed suit.
1931 — Montana started regulating motor carriers for hire
1935 — Federal Motor Carrier Act passed — By this time virtually all states had regulation

Regulation existed because:
(a) Discriminatory rate practices
(b) Various safety problems on the highways
(c) Instability of carriers to properly maintain + replace equipment due to lack of financial stability.
(d) Failure of carriers to adequately compensate those injured in Carrier operations after because of financial condition.

- In the early 1980's Motor carrier De Regulation commenced at the Federal ~~level~~ level,
- The results have been less than satisfactory for the general public
- In Montana we no longer have the large regular route pt ed pt bus operation
  - Greyhound - gone
  - Intermountain - gone
  - Continental - South route gone
  - Continental - North route cut down and probably soon gone -
- A viable passenger carrier group in Montana is an absolute necessity if this state is to participate in the tourist industry.
  - in the growing health industry
  - in Commerce and industry generally
- Several years ago the Oregon Public Utility Comm. did a study to determine whether or not it was in the best interests of that state to continue intrastate regulation of carriers.
  - It found that it was -
  - It studied the effect of de-regulation at the Federal level -
  - Found -
    1. Deceptive rate practices
    2. Substantial safety problems
    3. Reduced maintenance and increased aging of equipment.
    4. Entry of new small carriers not properly equipped to handle transportation needs.
    5. Increased business failure rate and ~~bankruptcy~~ bankruptcy
    6. Substantial reduction in service to small rural communities

Around here in Mt. - same does.

Air service in + Eastern Mont not threatened

Yet much household goods carrier industry to meet the needs + convenience of public

A Price Waterhouse study of the large package carriers when asked to do this - pointed out

SD 515
Senate 1452 Rec 1-25-88

→ Jerome Anderson – atty.
Montana Transp + Warehousemen Assn
Montana Passenger Carriers Assn. – Motor Coach – Taxi

→ We support the Bill –
We thank Sen Stimpson for his consideration & cooperation with us.
Worked with him on bill drafting

→ This leg. is the result of Congressional Action that occurred late last year. –
– UPS + Fed Ex were concerned about interstate reg. of their land transp operations from airports & delivery pts.
– Sen. Wendell Ford of Kentucky or other lobby stacked an amendment on the August Airline Deregulation Act that pre-empted to the Federal level all intra-state transp. of property.
Last minute deal – No hearing – Passed
~~Senate~~ ~~Did not~~
– Did recognize the unique characteristics of household goods, passengers, and solid waste + garbage + exempt them
Then in Mt. and 40+ other states such reg. continued in force
Then the Motor Carrier Act should be repealed with regard to property –
We desire to continue the regulated + so bill leaves that segment of industry regulated in order to protect general interests

absent – rate need for service

Regulated Motor Carrier Act Entire states

→ This contains:
1. – Requirement of service
2 – Control over rates + charges
3 – Certificate of maintaining insurance + specified limits
4 – Safe Maintenance of facilities and equipment in order to adequate & meet all service, safety needs

Mr. Anderson Mt. Motor Carrier Assn support questions

We ask favorable consideration

EXHIBIT 13
DATE 3/15/95
SB 378

March 15, 1995
Statement on SB 378 to the
House Highways and Transportation Committee
Montana Motor Carriers Association

Mr. Chairman and Members of the committee. For your record, I am Ben Havdahl, representing the Montana Motor Carriers Association. MMCA would like to go on record in support of SB 378.

MMCA has some 450 motor carrier members. Many of these carriers have operated as regulated intrastate motor carriers under a certificate of public convenience and necessity granted by the Montana Public Service Commission.

The regulated system, adopted 60 years ago, provided for motor carriers to operate as a "quasi public utility" under authority by law. The certificate granted by PSC contained a basic requirement for the motor carriers to serve all shippers within the scope of their authority upon demand and without prejudice.

In exchange for this requirement, the PSC approved the rates to be charged and restricted the number of carriers who would serve those shippers. The test for issuance of new authorities to carriers wanting to transport regulated commodities was centered around public need and convenience.

MMCA was founded in 1939 and the centerpiece of its foundation was the Motor Carrier Act. MMCA has maintained a standing policy supporting the continuation of a regulated intrastate motor carrier system since that time.

Now the Congress, effective January 1 of this year, as you have heard from prior testimony, has changed that system dramatically.

With that change, has come the change of a long standing policy position by MMCA for continued support of intrastate motor carrier regulation under PSC.

The new MMCA policy was adopted on January 5 of this year following the action by Congress and the dismissal of the lawsuit in the federal court.

SB378 is not a deregulation bill per se, as the sponsor has indicated. It represents a "downsizing" of the scope of economic regulation under the PSC, providing for the continued regulation of those carriers not affected by the federal law.

MMCA Board voted to support transferring the "Single State Registration Program", now authorized for interstate carriers under still a different federal law which replaced the so called "bingo stamp" registration system.

The base state issues one receipt to each carrier, copies of which are kept in the cabs as proof of registration of insurance when operating in other states. SB 378 transfers the administration of the SSRS program from PSC to the Motor Carrier Division of the MT DOT.

It also requires MT DOT to enforce the identification of ownership of certain motor vehicles no longer under the jurisdiction of PSC and grants rule making authority to the department.

SB378 is consistent with the policy changes made by MMCA and we want to support its passage. We would urge this committee to vote a do pass on the bill. Thank you.

BFI Waste Systems™
BROWNING-FERRIS INDUSTRIES
Missoula District

EXHIBIT 14
DATE 3/15/95
SB 378

Recycled paper

Comments on Senate Bill 378
Prepared by Jim Leiter, Browning-Ferris Industries of Montana
President, Montana Solid Waste Contractors' Association

Browning-Ferris Industries of Montana and the Montana Solid Waste Contractors' association support the passage of SB 378 but **suggest that the bill be amended to *remove* a proposed amendment exempting waste tires as regulated "garbage" for purposes of requiring Class D authority**. Exempting waste tires from regulation in this bill will weaken Montanans' ability to encourage legitimate hauling, re-use, recycling and disposal programs in the state.

Currently, the bill provides that tires to be transported to legitimate recycling facilities may be transported without Class D authority, a less restrictive situation than currently exists. This will allow less regulation of those tires which will legitimately be re-used or recycled. This is a desirable part of this bill. Existing language of the bill and current requirements, however, specify that Class D permit holders must be used to transport tires having no commercial value. These tires have always been regulated as "garbage" under PSC permitting requirements. They also have always been defined as "solid waste " under applicable regulations administered by the Department of Health and Environmental Sciences (attached). **Based on years of experience indicating the need for a cautious approach to waste tire management, the DHES assumes that such waste tires remain waste tires until they are ground up or re-processed for recycling into other products**. Current language requiring permitting for transport of these tires serves several purposes, including:

1) The language in the definition of "garbage" is consistent with other state laws and regulations. To lessen confusion and insure consistency, an effort should always be made to make our various laws and regulations as consistent as possible. Weakening language in some laws may lead to weakening of language in others. This could lead to a greater number of uncontrolled tire disposal sites.

2) Allowing other persons not possessing Class D authority to haul what obviously amounts to a municipal waste material makes it less certain that these waste tires will wind up at legitimate, licensed disposal facilities. The state has worked many years to insure that old tire piles are eliminated and waste tires wind up in approved sites. The proposed amendment would work against this progress. Unlicensed haulers have tried to illegally haul tires to unapproved sites for as long as there have been waste tires. The amendment encourages this kind of activity.

3) Exempting waste tires from transportation requirements places the burden for enforcement of programs to eliminate unlicensed tire piles and the health and environmental hazards they create on the Montana Department of Health and Environmental Sciences, an agency already burdened with other municipal waste enforcement duties. Class D haulers consistently use licensed disposal sites. Other haulers may not, and MDHES personnel readily admit they have inadequate resources to pursue illegal tire piles.

1501 RODGERS STREET • P.O. BOX 8449 • MISSOULA, MONTANA 59807 • (406) 543-3157 • FAX: (406) 543-5196

4) Even when a tire site is licensed, the Department of Health & Environmental Sciences has minimal regulations specifically for tire disposal sites and already is hoping for a great amount voluntary cooperation from tire pile owners and operators. There are few real "teeth" in their regulatory controls of waste tire sites. Allowing virtually anyone to haul waste tires lessens the state's ability to control end disposal options and makes it more likely that unlicensed, unregulated tire piles will develop.

5) There are several legitimate tire recycling programs being developed in the state. The viability of such programs depends upon the ability to compare the real "cost" of recycling with some realistic disposal alternative which includes a hauling and disposal component. Allowing some tires to escape the system or hiding the true cost of disposal lessens the opportunity that legitimate businesses have to promote systematic tire recycling programs.

We encourage the committee to vote a "**do pass**" recommendation for SB 378 **without the waste tire exclusionary language**.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Highways COMMITTEE BILL NO. SB 378

DATE 3/15/95 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Mark Foos	Mont. Passenger Carrier Assoc.	✓	
Joe Rentmeister	Safety Commercial Carrier	✓	
Margie Gatzemeier	" "	✓	
Bob Bushnell	Professor Snow Mobiler Lincoln	✓	
Dan Bushnell	Columbine Snowmobilers	✓	
Dennis Cole	MT Snowmobile Assn	✓	
Kelly McCann	Big Sky Transfer	✓	
Ben Havdahl	MT Motor Carriers Assn	✓	
Tom Northey	Montana Transfer Co.	✓	
Jim Leiter	Montana Solid Waste Contractors Assn Browning-Ferris Industries	✓	
Jerome Anderson	Montana Passenger Carriers Assn Montana Transfer + Warehousemans Assn	✓	
~~Dave Hunter~~	2nd Transfer Great Falls		✓
Dave Galt	MDT	✓	
Dale F. Dorn	Rocky Mtn Tank Lines	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

George A. Hall G+L Transit ✓

GEORGE OCHENSKI WASTE MNGMNT OF MONTANA —

Sue Reingarten MT Solid Waste Coalition ✓

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on March 20, 1995, at 3:35 p.m.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Rick Jore, Vice Chairman (Majority) (R)
Rep. Patrick G. Galvin, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Robert C. Clark (R)
Rep. Charles R. Devaney (R)
Rep. Marian W. Hanson (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Jeanette S. McKee (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Joe Tropila (D)
Rep. Jack Wells (R)

Members Excused: Rep. Matt Brainard
Rep. Dore Schwinden

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Kim Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearings: **None**
Guest Speaker: **Bob Luce, Multi-State Highway Transportation Agreement**
Executive Action: **SB 378 Be Concurred In As Amended**
SB 129 Tabled
SB 282 Tabled
SB 295 Be Concurred In
SB 361 Be Concurred In As Amended
SB 251 Be Concurred In
SB 321 Be Concurred In As Amended

GUEST SPEAKER

Robert Luce, Consultant, Multi-State Highway Transportation Agreement, described the reason for the Multi-State Highway Transportation Agreement. **SEE EXHIBITS 1, 2, and 3.**

EXECUTIVE ACTION ON SB 378

Motion: **REP. CHARLES DEVANEY MOVED SB 378 BE CONCURRED IN.**

Motion: **REP. CHARLES DEVANEY MOVED TO AMEND SB 378.**

Discussion:

REP. CHARLES DEVANEY explained his amendments. **SEE EXHIBIT 4.**

CHAIRMAN SHIELL ANDERSON asked if the State should take waste tires and not waste water. **Connie Erickson** stated that the definition of garbage would not include waste water and waste tires.

REP. CHARLES DEVANEY stated that waste water would be the bi-product of well production within the oil industry. The water has a high salt percentage.

REP. MARIAN HANSON stated that **REP. SCOTT ORR** had told her that if the committee leaves these waste tires in the bill that the State would be restricting itself.

Motion/Vote: The question was called on **REP. CHARLES DEVANEY'S** amendments. **A voice vote was taken. Motion CARRIED 17-1 with REP. DON LARSON voting no, REP. MATT BRAINARD and REP. DORE SCHWINDEN LEAVING PROXY VOTES.**

Discussion:

REP. DON LARSON asked where the waste tires are currently going. He also asked if they are being properly disposed of.

REP. CHARLES DEVANEY stated that there is a place in Sheridan County. The landfill in Sheridan County segregates the tires from the other garbage and they do not charge for the service so that people will not dump tires elsewhere.

REP. DON LARSON stated that by passing that amendment, this would deregulate tires. **CHAIRMAN SHIELL ANDERSON** replied that a person must have authority for their region. **REP. LARSON** responded that the committee just took it out of the bill with the amendment. He also asked if the tires are garbage or a commodity. **CHAIRMAN ANDERSON** replied that currently they are a commodity. **Connie Erickson** replied that she agreed with **CHAIRMAN ANDERSON** that the waste tires are currently a commodity.

REP. DON LARSON asked if he could hear from **Sue Weingardner.**

Sue Weingardner, Executive Director, Montana Solid Waste Contractors, stated that they had requested that the committee not remove waste tires from the definition of garbage. She stated that waste tires are garbage. She also said that waste tires that are going to be recycled are not garbage. She said that these tires do need special handling if they go to the landfills.

REP. CHARLES DEVANEY stated that he had experience handling tires. He stated that the Department of Health and Environmental Sciences will require a person to hire an exterminator to treat tires that are left hanging around a person's property because of the mosquito infestation. He also said that these tires do have to be consolidated in one special part of a landfill because they don't deteriorate.

REP. DON LARSON stated he would like to keep tires under the definition of garbage because more urban states recycle their tires, but Montana does not have enough tires to do that at this time. He said by keeping these tires as garbage they can be properly stored and mined at a later date. The State of Montana cannot justify a tire shredder at this time, but possibly at a future date the State will need one.

CHAIRMAN SHIELL ANDERSON stated that the amendment changes that if a person hauls their tires to a landfill or if a person hires someone to haul the tires for them.

Motion: **REP. DON LARSON MOVED TO AMEND SB 378.**

Discussion:

REP. DON LARSON explained his amendment. He would like to agree with Browning-Ferris Industries and remove waste tire exclusionary language.

CHAIRMAN SHIELL ANDERSON stated that he will vote against the Larson amendment because the purpose of **SEN. CHARLES SWYSGOOD's** bill was to deregulate several items. He also stated that he does not see a problem with the disposal of tires in his area.

REP. PAT GALVIN stated that there are restrictions in many city ordinances with the reference of tires and how they are controlled.

Motion/Vote: The question was called on **REP. DON LARSON's** amendment. **A voice vote was taken. Motion FAILED 13 to 5 with REP. RYAN, REP. SOMERVILLE, REP. LARSON, REP. TROPILA and REP. McCULLOCH voting yes and REP. DORE SCHWINDEN AND REP. MATT BRAINARD leaving proxy.**

Motion: **REP. CHARLES DEVANEY MOVED SB 378 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. LINDA McCULLOCH asked what exactly the committee deregulated. **Connie Erickson** replied that the committee only deregulated the property carriers. It did not deregulate the passenger carriers, the hauling of household goods, goods to retail outfits, etc.

REP. CHARLES DEVANEY noted that this will comply with federal regulations.

Vote: The question was called. **A voice vote was taken. Motion CARRIED 16 to 2 with REP. LARSON and REP. McCULLOCH voting no and REP. MATT BRAINARD and REP. DORE SCHWINDEN left proxy votes voting yes.**

EXECUTIVE ACTION ON SB 129

Motion/Vote: **REP. DAN McGEE MOVED TO RECONSIDER SB 129.** The question was called. **A roll call vote was taken. Motion CARRIED 10 to 8 with REP. DORE SCHWINDEN and REP. MATT BRAINARD leaving proxy votes. SEE EXHIBIT 8.**

Motion: **REP. DAN McGEE MOVED SB 129 BE CONCURRED IN.**

Motion: **REP. DAN McGEE MOVED TO AMEND SB 129.**

Discussion:

REP. DAN McGEE explained his amendments. **SEE EXHIBIT 5.**

REP. DON LARSON asked if the fine schedule would change with **REP. McGEE's** amendments. **REP. DAN McGEE** answered no.

REP. DON LARSON asked if speeding would go on a person's driving record. **REP. DAN McGEE** replied no.

REP. DON LARSON asked what **REP. McGEE's** amendments would do. **REP. DAN McGEE** stated that it would change the issue to a safety issue rather than a fuel conservation issue.

REP. BILL RYAN asked if by making this a moving violation would it affect a person's insurance. **REP. DAN McGEE** stated no, that it would not go on a person's record so, it would not affect a person's insurance rates.

REP. DON LARSON stated that he would like to speak in favor of the reconsideration on SB 129.

HOUSE OF REPRESENTATIVES

Highways

ROLL CALL DATE March 20, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Shiell Anderson, Chairman	✓		
Rep. Rick Jore, Vice Chairman, Majority	✓		
Rep. Pat Galvin, Vice Chairman, Minority	✓		
Rep. Joe Barnett	✓		
Rep. Matt Brainard	Left Proxy Vote		✓
Rep. Bob Clark	✓		
Rep. Charles Devaney	✓		
Rep. Marian Hanson	✓		
Rep. Don Larson	✓		
Rep. Rod Marshall	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Jeanette McKee	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	Left Proxy Vote		✓
Rep. Roger Somerville	✓		
Rep. Joe Tropila	✓		
Rep. Jack Wells	✓		

HOUSE STANDING COMMITTEE REPORT

March 21, 1995

Mr. Speaker: We, the committee on **Highways and Transportation** report that **Senate Bill 378** (third reading copy -- blue) **be concurred in as amended.**

Signed: Shiell W. Anderson
Shiell Anderson, Chair

And, that such amendments read: **Carried by: Rep. Devaney**

1. Page 6, line 25.
Following: "incinerator,"
Insert: "or"

2. Page 6, lines 26 and 27.
Following: "well" on line 26
Strike: the remainder of line 26 through "surface" on line 27
Following: "." on line 27
Insert: "The term does not include wastewater and waste tires."

-END-

Committee Vote:
Yes 16, No 2.

651525SC.Hdh

EXHIBIT 4
DATE 3-20-95
SB 378

Amendments to Senate Bill No. 378
Third Reading Copy

Requested by Senator Swysgood
For the House Committee on Highways and Transportation

Prepared by Connie Erickson
February 28, 1995

1. Page 6, line 25.
Following: "incinerator,"
Insert: "or"

2. Page 6, lines 26 and 27.
Following: "well" on line 26
Strike: the remainder of line 26 through "surface" on line 27
Following: "." on line 27
Insert: "The term does not include wastewater and waste tires."

SENATE BILL NO. 378

INTRODUCED BY SWYSGOOD

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING STATE REGULATION FOR CERTAIN MOTOR CARRIERS; TRANSFERRING THE SINGLE-STATE REGISTRATION PERMIT PROGRAM TO THE DEPARTMENT OF TRANSPORTATION; AMENDING SECTIONS 30-14-803, 39-2-304, 69-12-101, 69-12-102, AND 69-12-301, MCA; REPEALING ~~SECTION~~ SECTIONS 69-12-103 AND 69-12-405, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 5] grants rulemaking authority to the department of transportation. It is the intent of [section 1] to transfer the administration of the single-state registration system for interstate motor carriers from the public service commission to the department of transportation. At a minimum, the rules must address:

(1) the implementation of the single-state registration system currently administered by the public service commission; and

(2) imposition of a fee to defray the costs of administering the single-state registration permit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Cooperative or reciprocal registration -- filing of insurance -- fee.** (1) The department may enter into written agreements with agencies of other states to allow for the cooperative or reciprocal state registration of interstate or international motor carriers and authorize the agency of a participating state to:

(a) issue interstate motor carrier registrations, stamps, and permits;

(b) accept filings of insurance, financial responsibility, and orders;

(c) collect and disburse fees;

(d) share and exchange information for audit, reporting, and enforcement purposes; and

(e) perform any other function that the department determines is justified to facilitate the cooperative or reciprocal registration.

(2) (a) The department may impose a fee set by rule on an interstate or international motor carrier for the administration of this section. The fee must be paid on each motor vehicle operated by the motor carrier on the public highways of this state. At the time of initial registration and each succeeding year, at a time set by the department, the motor carrier shall pay the fee to the department.

(b) The department shall remit the fee to the state treasurer for deposit in the general fund.

NEW SECTION. **Section 2. Identification of ownership of certain large motor vehicles.** (1) (a) A person may not operate a motor vehicle or combination of vehicles, except farm vehicles, having a gross weight of more than 10,000 pounds upon the highways of the state unless there is displayed on both sides of each vehicle operated under its own power, either alone or in combination:

(i) the name or trade name and city and state of the person or corporation under whose jurisdiction the vehicle is being operated; or

(ii) the trade name and department of transportation number of the person or corporation under whose jurisdiction the vehicle is being operated.

(b) The display of name must be in letters in sharp contrast to the background and in size, shape, and color readily legible in daylight from a distance of 50 feet while the vehicle is not in motion. The display must be kept and maintained to remain legible. The display may be accomplished either by painting the information on the vehicle or through the use of a decal or a removable device that is prepared so that it meets the identification and legibility requirements of this section.

(2) This section does not apply to motor vehicles being:

(a) transported to dealers from point of manufacture;

(b) transported from one dealer to another;

(c) demonstrated to a prospective buyer; or

(d) delivered to a buyer from a dealer or a manufacturer.

NEW SECTION. **Section 3. For hire defined.** "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

NEW SECTION. **Section 4. Motor carrier defined.** "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway in this state for the transportation of property for hire on a commercial basis. The term does not include motor carriers regulated under Title 69, chapter 12.

NEW SECTION. **Section 5. Rulemaking authority.** The department of transportation may adopt and enforce rules for the administration of the single-state registration system, including the setting of a fee, and for other matters necessary to carry out the provisions of [sections 1 and 2].

Section 6. Section 30-14-803, MCA, is amended to read:

"**30-14-803. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Affiliate" means a person who, other than through a franchise or marketing agreement, controls, is controlled by, or is under common control with any other person.

(2) "Cost of doing business", in the absence of proof of lesser cost, means 1% of the delivered cost of motor fuel for wholesale sales and 6% of the delivered cost of motor fuel for retail sales and in other cases includes all costs incurred in the conduct of business, including but not limited to:

(a) labor, including salaries of executives and officers;

(b) rent that is not less than the fair market value based on current use;

(c) interest on borrowed capital;

(d) depreciation;

(e) selling cost;

(f) maintenance of equipment;

(g) losses due to breakage or damage;

(h) credit card fees or other charges;

(i) credit losses; and

(j) all licenses, taxes, insurance, and advertising.

(3) "Customary discount for cash" means an allowance, whether part of a larger discount or not, made to a wholesaler or retailer when a person pays for motor fuel within a limited or specified time.

(4) "Delivered cost of motor fuel" means:

(a) for a distributor or retailer, the lower of the most recent cost of motor fuel to the distributor or retailer or the lowest replacement cost of motor fuel to the distributor or retailer within 5 days prior to the date of sale, in the quantity last purchased, whether within or before the 5-day period, less all trade discounts except customary discounts for cash plus transportation costs and ~~any~~ taxes that may be required by law if not already included in the invoice cost; or

(b) for a refiner, that refiner's posted rack price to the wholesale class of trade at the terminal used by the refiner to obtain the motor fuel, plus transportation costs and ~~any~~ taxes that may be required by law. If the refiner does not regularly sell to the wholesale class of trade at the terminal or does not post a terminal price, the refiner may use as its rack price the posted price of any other refiner at a terminal within the general trade area that has products readily available for sale to the wholesale class of trade.

(5) "Distributor" means a person engaged in the purchase of motor fuel for resale to a retail motor fuel outlet.

(6) "Motor fuel" means gasoline, as defined in 15-70-201, alcohol blended with gasoline to produce gasohol, and special fuel as defined in 15-70-301.

(7) "Person" means an individual, a sole proprietorship, a partnership, a corporation, any other form of business entity, or ~~any~~ an individual acting on behalf of any of them.

(8) "Posted rack price" means the f.o.b. terminal price for a particular motor fuel that a refiner, producer, or person offers for sale or transfer to itself or ~~any~~ a related or unrelated person.

(9) "Refiner" means a person engaged in the production or refining of motor fuel, whether the production or refining occurs in this state or elsewhere, and includes ~~any~~ an affiliate of the person.

(10) "Retailer" means a person engaged in the business of selling motor fuel at a retail motor fuel outlet.

(11) "Retail motor fuel outlet" means a place of business where motor fuel is sold and delivered into the tanks of motor vehicles regardless of whether the income from the selling and delivery of the fuel is the primary source of revenue of that business.

(12) "Sale" means a transfer, gift, sale, offer for sale, or advertisement for sale in any manner or by any means of motor fuel, including a transfer of motor fuel by a person to ~~himself~~ that person or to ~~his~~ an affiliate.

(13) "Transfer price" means the price used by a person to transfer motor fuel to ~~himself~~ that person or to an affiliate for resale at a retail motor fuel outlet.

(14) "Transportation cost" means the actual cost of transportation of motor fuel ~~or, in the absence of proof of actual cost, the common carrier rates fixed by the public service commission for the immediate market area concerned~~.

(15) "Wholesaler" means a person engaged in the business of making sales at wholesale to a retail motor fuel outlet."

Section 7. Section 39-2-304, MCA, is amended to read:

"**39-2-304. Lie detector tests prohibited -- regulation of blood and urine testing.** (1) A person, firm, corporation, or other business entity or its representative ~~thereof~~ may not require:

(a) as a condition for employment or continuation of employment, ~~any~~ a person to take a polygraph test or any form of a mechanical lie detector test;

(b) as a condition for employment, ~~any~~ a person to submit to a blood or urine test, except for employment in:

(i) hazardous work environments;

(ii) jobs the primary responsibility of which is security, public safety, or fiduciary responsibility; or

(iii) jobs involving the intrastate commercial transportation of persons or commodities by a commercial motor carrier or an employee subject to driver qualification requirements; and

(c) as a condition for continuation of employment, ~~any~~ an employee to submit to a blood or urine test unless the employer has reason to believe that the employee's faculties are impaired on the job as a result of alcohol consumption or illegal drug use, except that drug testing may be conducted at an employee's regular biennial physical for employment in jobs involving the intrastate commercial motor carrier transportation of persons or commodities.

(2) Prior to the administration of a drug or alcohol test, the person, firm, corporation, or other business entity or its representative shall adopt the written testing procedure that is provided in 49 CFR, part 40, and make it available to all persons subject to testing.

(3) The person, firm, corporation, or other business entity or its representative shall provide a copy of drug or alcohol test results to the person tested and provide ~~him~~ the person the opportunity, at the expense of the person requiring the test, to obtain a confirmatory test of the blood or urine by an independent laboratory selected by the person tested. The person tested must be given the opportunity to rebut or explain the results of either test or both tests.

(4) Adverse action may not be taken against a person tested under subsections (1)(b), (1)(c), (2), and (3) if the person tested presents a reasonable explanation or medical opinion indicating that the results of the test were not caused by alcohol consumption or illegal drug use.

(5) A person who violates this section is guilty of a misdemeanor.

(6) As used in this section:

(a) "commercial motor carrier" has the meaning provided in 69-12-101 and in [section 4]; and

(b) "intrastate" means commerce or trade that is begun, carried on, and completed wholly in this state."

Section 8. Section 69-12-101, MCA, is amended to read:

"**69-12-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company, association, or joint-stock association.

(5) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(6) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, OR licensed disposal well~~, or licensed land farm. As used in this subsection, "land farm" means a part of a facility at which petroleum-contaminated material is applied onto or incorporated into the soil surface~~. THE TERM DOES NOT INCLUDE WASTEWATER AND WASTE TIRES.

(7) "Household goods" means any of the following:

(a) personal effects and property used or to be used in a dwelling when they are a part of the

equipment or supply of the dwelling. The term does not include property moving from a factory or store unless the property is purchased by a householder for use in a dwelling and is transported at the request of the householder.

(b) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments when those items are a part of the stock, equipment, or supply of the stores, offices, museums, institutions, hospitals, or other establishments. The term does not include the stock-in-trade of an establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment or a portion of the establishment from one location to another.

(c) articles, including objects of art, displays, and exhibitions that because of their unusual nature or value, require the specialized handling and equipment usually employed in moving household goods and other similar articles.

~~(6)~~(8) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by ~~any~~ a court, operating motor vehicles upon ~~any~~ a public highway in this state for the transportation of ~~persons or property~~ passengers, household goods, or garbage for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. ~~The term includes any motor carrier serving the public in the business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.~~

~~(7)~~(9) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state.

~~(8)~~(10) "Person" means an individual, firm, or partnership.

~~(9)~~(11) "Public highway" means a public street, road, highway, or way in this state.

~~(10)~~(12) "Railroad" means the movement of cars on rails, regardless of the motive power used.

~~(11)~~(13) "Recyclable" means any material diverted from the solid waste stream that can be reused in the production of heat or energy or as raw material for new products and for which markets exist."

Section 9. Section 69-12-102, MCA, is amended to read:

"69-12-102. Scope of chapter -- exemptions. (1) This chapter does not affect:

(a) ~~motor vehicles used in carrying property consisting of agricultural commodities (not including manufactured products of agricultural commodities) if the motor vehicles are not used in carrying other~~

~~property or passengers for compensation;~~

~~(b)~~ the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;

~~(c)~~(b) the transportation by means of motor vehicles in the regular course of business of employees~~, supplies, and materials~~ by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees~~, supplies, and materials~~ in construction and production is concerned;

~~(d)~~(c) the transportation of ~~property~~ household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas ~~thereof~~ of a city, town, or village, as determined by the commission;

~~(e)~~(d) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

~~(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;~~

~~(g)~~(e) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

~~(h)~~(f) ambulances;

~~(i) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill;~~

~~(j)~~(g) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also going to or from the driver's place of employment;

~~(k) the transportation of property by motor carrier as part of a continuous movement if that property, prior or subsequent to part of a continuous movement, has been or will be transported by an air carrier;~~

~~(l)~~(h) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter

14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

~~(m)~~(i) armored motor vehicles used ~~exclusively~~ for the transportation of ~~coins, currency, silver bullion, gold bullion, and other precious metals, precious stones,~~ valuable paintings~~,~~ and other items of unusual value requiring special handling and security;

~~(n)~~(j) the transportation of ~~a commodity~~ household goods or garbage under an agreement between a motor carrier and an office or agency of the United States government; or

~~(o)~~(k) the transportation of ~~handicapped~~ disabled or elderly persons provided by private, nonprofit organizations. As used in this subsection:

(i) ~~"handicapped"~~ "disabled" means an individual who has a physical or mental impairment that substantially limits one or more major life activities;

(ii) "elderly" means a person 60 years of age or older; and

(iii) "private, nonprofit organization" means an organization recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 10. Section 69-12-301, MCA, is amended to read:

"**69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into four classes to be known as:

(a) Class A motor carriers;

(b) Class B motor carriers;

(c) Class C motor carriers; and

(d) Class D motor carriers.

(2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers include all motor carriers ~~operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or transporting persons,~~ where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers include all motor carriers operating motor vehicles transporting ~~(including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, organic and inorganic matter, and recyclables~~ garbage."

NEW SECTION. **Section 11. Codification instruction.** (1) [Sections 1, 2, and 5] are intended to be codified as an integral part of Title 61, chapter 3, part 7, and the provisions of Title 61, chapter 3, part 7, apply to [sections 1, 2, and 5].

(2) [Section 3] is intended to be codified as an integral part of Title 61, chapter 1, part 5, and the provisions of Title 61, chapter 1, part 5, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 61, chapter 1, part 3, and the provisions of Title 61, chapter 1, part 3, apply to [section 4].

NEW SECTION. **Section 12. Repealer.** ~~Section~~ SECTIONS 69-12-103 AND 69-12-405, MCA, ~~is~~ ARE repealed.

NEW SECTION. **Section 13. Effective date.** [This act] is effective July 1, 1995.

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